

REMARKS

Claims 26-50 were pending in the application when the Office Action was mailed. All pending claims were rejected. Applicant has amended claims 26-39 and 50. Applicant has not added or canceled any claims. Accordingly, claims 26-50 remain pending.

The Office Action objects to claim 37 because "[t]he term 'audiovisually' does not appear to be a word." (Office Action, Page 2.) The Random House Unabridged Dictionary (1998 edition, page 135) defines "audiovisually" as an adverb form of the adjective "audiovisual." Applicant fails to understand why audiovisually "does not appear to be a word" when it is defined in a dictionary that is commonly employed by various Federal Courts of the United States. Moreover, U.S. Patent Nos. 6,907,067, 6,440,047, 6,400,285, and 5,059,944 use the word audiovisually in their claims. Even if "audiovisually" is not considered to be a word, terms in a claim are often not words. For example, "URL" is not a word but is commonly found in claims. When a term is used that is not a word, ordinary and customary meaning can be ascribed to that word. (See MPEP § 2111.01 (III).) An Internet search for "audiovisually" results in citations to articles and documents published before the instant application that employ the word "audiovisually" as an adverb form of the adjective "audiovisual." Applicant thus respectfully requests withdrawal of this objection.

The Office Action indicates that "[s]ome documents submitted in the IDS were not considered because the documents that were submitted were not legible." (Office Action, Page 2.) The Office Action does not identify which documents were illegible or to which IDS the Office Action refers. Applicant again submits herewith its best copies of literature submitted with its last IDS submission dated October 31, 2007. If the documents submitted again herewith remain illegible, the Examiner is requested to contact the undersigned to identify the documents or pages that remain illegible.

The Office Action also indicates that "any non patent literature also requires both a month and year." (Office Action, Page 2.) The Office Action apparently refers to the article by Gonzalez-Castano because that is the only document indicated in the last IDS submission that indicated only a year, but not a month. Although the paper does not appear to identify a month on its face, an Internet search revealed that the date is November, 2002. A corrected IDS is attached.

The Office Action incorrectly indicates that there are antecedent basis problems in claims 26 and 31 and rejects those claims under 35 USC § 112. (Office Action, Page 2.) According to the Office Action, there is insufficient antecedent basis in claim 26 for "the premise' in (a)." (Office Action, Page 2.) However, the preamble of claim 26 recites "a premise." Applicant thus requests withdrawal of this rejection.

The Office Action also rejects claim 31 under 35 USC § 112 because "[t]he claim does not previous (sic) refer to 'rate of change' or 'direction of change.'" When "the scope of a claim would be reasonably ascertainable by those skilled in the art, then the claim is not indefinite." (MPEP § 2173.05(e).) Nevertheless, applicant has amended claim 31 to change two instances of "the" to "a" in claim 31.

The Office Action does not reject any other claim under 35 USC § 112, but adds "applicant is (sic) should carefully review all claims and make necessary corrections." Applicant was unable to identify any claim with antecedent basis problems not falling within the scope of the exception laid out in MPEP § 2173.05(e). Should any claim require correction, applicant respectfully requests the Examiner to identify such errors.

Applicant amends various claim to more distinctly claim its technology. These amendments were not made in response to any rejection.

The Office Action rejects claims 26-50 under 35 USC § 102(e) over U.S. Patent No. 6,091,956 ("Hollenberg"). The applicant respectfully traverses the rejections. Hollenberg is directed to a "situation information system" that provides information about places and events to mobile computers and their users.

Claims 26-30 now recite "select information specific to an exhibit in the premise if the mobile computing device remains near the exhibit for a specified duration of time." According to the Office Action, Hollenberg teaches this feature at 8:6-25, 13:1-45, 16:9-47, and Figures 2, 4, and 6. (Office Action, Page 4.) The Office Action is incorrect. At 8:6-25, Hollenberg discusses calculation and distribution of vehicle location, speed, and direction. At 13:1-45, Hollenberg discusses collecting marketing information based on traffic data (13:1-7); and providing information pertinent to a device's location (13:8-45). At 16:9-47, Hollenberg describes use of the system by physically impaired users (16:9-10) and identifying information pertaining to short-term (e.g., 1-hour) sales (16:11-47). Figures 2, 4, and 6 illustrate graphical user interfaces showing maps of retail locations. Nothing in the identified passages or figures teaches or suggests "selects information specific to an exhibit in the premise if the mobile computing device remains near the exhibit for a specified duration of time" as claims 26-30 recite. (Emphasis added.) In Hollenberg's technique, when a user "approaches within a selectable distance of proximate information station 3a, proximate station banner 6d appears on display 4a, followed by proximate merchandise banner 6e to call user's attention." (Hollenberg, 13:31-33.) Approaching an exhibit is not the same as "remains near the exhibit for a specified duration of time" as recited. Accordingly, applicant respectfully submits that claims 26-30 are patentable over Hollenberg.

Claims 31-37 now recite "receive from the server computing device a portion of the position-related information selected based on ... a determination that the mobile computing device has remained near an item corresponding to the position-related information for a specified duration of time." As described above, the Office Action points to no teaching or suggestion for this feature in Hollenberg. Accordingly, applicant respectfully submits that claims 31-37 are now patentable over Hollenberg.

Claims 38-41 now recite "retrieving position-related information based on ... a determination that the mobile computing device has remained near an item corresponding to the position-related information for a specified duration of time." As

described above, the Office Action points to no teaching or suggestion for this feature in Hollenberg. Accordingly, applicant respectfully submits that claims 38-41 are now patentable over Hollenberg.

Claims 42-49 recite "different information is selected and delivered to the mobile computing device based on whether the mobile computing device is determined to be stationary or moving." According to the Office Action, Hollenberg teaches this feature at 8:6-25, 13:145, 16:9-47, and Figures 2, 4, and 6. (Office Action, Page 9.) At 8:6-25, Hollenberg discusses calculation and distribution of vehicle location, speed, and direction. At 13:1-45, Hollenberg discusses collecting marketing information based on traffic data (13:1-7); and providing information pertinent to a device's location (13:8-45). At 16:9-47, Hollenberg describes use of the system by physically impaired users (16:9-10) and identifying information pertaining to short-term (e.g., 1-hour) sales (16:11-47). Figures 2, 4, and 6 illustrate graphical user interfaces showing maps of retail locations. Nothing in the identified passages or figures teaches or suggests "different information is selected and delivered to the mobile computing device based on whether the mobile computing device is determined to be stationary or moving" as recited. (Emphasis added.) At 16:23-25, Hollenberg describes a technique for displaying information when the system is awaiting the user's input. There is no indication in the cited passage that different information is selected and delivered based on whether the user is stationary or moving. Accordingly, applicant respectfully submits that claims 42-49 are patentable over Hollenberg.

Claim 50 recites steps that are "performed by a server computing device for selecting and delivering information." Taking the hotel example employed by the Office Action in rejecting the claim (see Office Action, Page 12), in applicant's technology, upon observing a user's position, direction, and rate, a server can notify a hotel that the user is approaching. If the user is approaching a different hotel, the server would notify that other hotel. In contrast, there is no such third party in the cited passages that observes the user's movements. According to the example provided at 6:31-49, a user

selects a hotel and then the hotel can track the user's position. There is no teaching or suggestion in the cited passage that a server computing device as performing these steps. Nevertheless, applicant has amended claim 50 to more particularly define its technology.

The claims each recite a novel combination of elements that is neither taught nor suggested by the applied references and so cannot be properly rejected under 35 U.S.C. §§ 102 or 103.

Although the applicant argues some but not all rejections, applicant does not concede the merits of any rejection not specifically argued.

Based on these amendments and remarks, applicants respectfully request early allowance of this application. If the Examiner has any questions or believes a telephone conference would expedite prosecution of this application, the Examiner is encouraged to call the undersigned at (206) 359-6478.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 50-0665, under Order No. 320528065US2 from which the undersigned is authorized to draw.

Dated: July 8, 2008

Respectfully submitted,

By

Rajiv P. Sarathy

Registration No.: 55,592

PERKINS COIE LLP

P.O. Box 1247

Seattle, Washington 98111-1247

(206) 359-8000

(206) 359-7198 (Fax)

Attorney for Applicant

Attachments